

§ 982.510

24 CFR Ch. IX (4-1-99 Edition)

(b) *Amount of annual adjustment.* (1) The adjusted rent to owner equals the lesser of:

(i) The pre-adjustment rent to owner multiplied by the applicable Section 8 annual adjustment factor, published by HUD in the FEDERAL REGISTER, that is in effect 60 days before the HAP contract anniversary;

(ii) The reasonable rent (as most recently determined or redetermined by the HA in accordance with §982.503); or

(iii) The amount requested by the owner.

(2) In making the annual adjustment, the pre-adjustment rent to owner does not include any previously approved special adjustments.

(3) The rent to owner may be adjusted up or down in accordance with this section.

(4) Notwithstanding paragraph (b)(1) of this section, the rent to owner for a unit must not be increased at the annual anniversary date unless:

(i) The owner requests the adjustment by giving notice to the HA; and

(ii) During the year before the annual anniversary date, the owner has complied with all requirements of the HAP contract, including compliance with the HQS.

(5) The rent to owner will only be increased for housing assistance payments covering months commencing on the later of:

(i) The first day of the first month commencing on or after the contract anniversary date; or

(ii) At least sixty days after the HA receives the owner's request.

(6) To receive an increase resulting from the annual adjustment for an annual anniversary date, the owner must request the increase at least sixty days before the next annual anniversary date.

[63 FR 23861, Apr. 30, 1998, as amended at 64 FR 13057, Mar. 16, 1999]

EFFECTIVE DATE NOTE: At 64 FR 13057, Mar. 16, 1999, §982.509 was amended by revising paragraph (b)(5)(i), effective Apr. 15, 1999. For the convenience of the user, the superseded text is set forth as follows:

§982.509 Regular tenancy: Annual adjustment of rent to owner.

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(b) * * *

(5) * * *

(i) The contract anniversary date; or

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§982.510 Regular tenancy: Special adjustment of rent to owner.

(a) *Substantial and general cost increases.* (1) At HUD's sole discretion, HUD may approve a special adjustment of the rent to owner to reflect increases in the actual and necessary costs of owning and maintaining the unit because of substantial and general increases in:

(i) Real property taxes;

(ii) Special governmental assessments;

(iii) Utility rates; or

(iv) Costs of utilities not covered by regulated rates.

(2) An HA may make a special adjustment of the rent to owner only if the adjustment has been approved by HUD. The owner does not have any right to receive a special adjustment.

(b) *Reasonable rent.* The adjusted rent may not exceed the reasonable rent. The owner may not receive a special adjustment if the adjusted rent would exceed the reasonable rent.

(c) *Term of special adjustment.* (1) The HA may withdraw or limit the term of any special adjustment.

(2) If a special adjustment is approved to cover temporary or one-time costs, the special adjustment is only a temporary or one-time increase of the rent to owner.

§982.511 Rent to owner: Effect of rent control.

In addition to the rent reasonableness limit under this subpart, the amount of rent to owner also may be subject to rent control limits under State or local law.

§982.512 Rent to owner in subsidized projects.

(a) *Subsidized rent.* (1) The rent to owner in an insured or noninsured Section 236 project, a Section 515 project of the Rural Development Administration, a Section 202 project or a Section 221(d)(3) below market interest rate project is the subsidized rent.

(2) During the assisted tenancy, the rent to owner must be adjusted to follow the subsidized rent, and must not be adjusted by applying the published Section 8 annual adjustment factors. For such units, special adjustments may not be granted. The following sections do not apply to a tenancy in a subsidized project described in paragraph (a)(1) of this section: § 982.509 (annual adjustment) and § 982.510 (special adjustment).

(b) *HOME*. For units assisted under the HOME program, rents are subject to requirements of the HOME program (24 CFR 92.252).

(c) *Other subsidy: HA discretion to reduce rent*. In the case of a regular tenancy, the HA may require the owner to reduce the initial rent to owner because of other governmental subsidies, including tax credit or tax exemption, grants or other subsidized financing.

§ 982.513 Other fees and charges.

(a) The cost of meals or supportive services may not be included in the rent to owner, and the value of meals or supportive services may not be included in the calculation of reasonable rent.

(b) The lease may not require the tenant or family members to pay charges for meals or supportive services. Non-payment of such charges is not grounds for termination of tenancy.

(c) The owner may not charge the tenant extra amounts for items customarily included in rent in the locality, or provided at no additional cost to unsubsidized tenants in the premises.

§ 982.514 Distribution of housing assistance payment.

The monthly housing assistance payment is distributed as follows:

(a) The HA pays the owner the lesser of the housing assistance payment or the rent to owner.

(b) If the housing assistance payment exceeds the rent to owner, the HA may pay the balance of the housing assistance payment either to the family or directly to the utility supplier to pay the utility bill on behalf of the family.

§ 982.515 Family share: Family responsibility.

(a) The family share is calculated by subtracting the amount of the housing assistance payment from the gross rent.

(b) The HA may not use housing assistance payments or other program funds (including any administrative fee reserve) to pay any part of the family share. Payment of the family share is the responsibility of the family.

§ 982.516 Family income and composition: Regular and interim examinations.

(a) *HA responsibility for reexamination and verification*. (1) The HA's responsibilities for reexamining family income and composition are specified in 24 CFR part 5, subpart F.

(2) The HA must obtain and document in the tenant file third party verification of the following factors, or must document in the tenant file why third party verification was not available:

- (i) Reported family annual income;
- (ii) The value of assets;
- (iii) Expenses related to deductions from annual income; and
- (iv) Other factors that affect the determination of adjusted income.

(b) *When HA conducts interim reexamination*. (1) At any time, the HA may conduct an interim reexamination of family income and composition.

(2) At any time, the family may request an interim determination of family income or composition because of any changes since the last determination. The HA must make the interim determination within a reasonable time after the family request.

(3) Interim examinations must be conducted in accordance with policies in the HA administrative plan.

(c) *Family reporting of change*. The HA must adopt policies prescribing when and under what conditions the family must report a change in family income or composition.

(d) *Effective date of reexamination*. (1) The HA must adopt policies prescribing how to determine the effective date of a change in the housing assistance payment resulting from an interim redetermination.